SENATE BILL No. 538

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-10-20; IC 4-10-21-0.5.

Synopsis: State spending limit. Limits increases in state expenditures to an amount based on the increase in inflation and population. Allows the general assembly to authorize additional spending through adoption of a concurrent resolution. Establishes the property tax elimination fund to receive certain state revenues that exceed the spending limit, and provides that the fund is to be used to pay for any distribution or expenditure that was previously funded in whole or in part by property tax revenue.

Effective: Upon passage.

Weatherwax, Hume, Drozda, Young R Michael, Steele, Kruse, Riegsecker, Nugent, Waterman

January 23, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 538

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-10-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20. State Fiscal Year Spending Limit

Sec. 1. The limits on state expenditures set forth in this chapter are in addition to the limits set forth in IC 4-10-21. Nothing in this chapter may be construed to allow state expenditures to exceed the limits set forth in IC 4-10-21.

Sec. 2. (a) This chapter does not apply to the extent that payments for pensions, including accrued unfunded liability, and final court judgments on which the state is obligated to pay exceed the spending limits imposed by this chapter.

(b) This chapter does not apply to the extent that money expended from a reserve fund exceeds the spending limits imposed by this chapter if the initial transfer of the money into the reserve fund was included in the fiscal year spending of a previous state fiscal year.

Sec. 3. As used in this chapter, "calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

Sec. 4. As used in this chapter, "fiscal year spending" means all state governmental expenditures and reserve increases in a state fiscal year, except expenditures from the following:

(1) Money deposited into the property tax elimination fund established by section 13 of this chapter.

(2) Money received as gifts.

(3) Federal funds.

(4) Money collected for another government.

(5) Pension contributions by employees and pension fund earnings.

(6) Money received from damage awards.

(7) Money received from property sales.

(8) Money received from settlement awards.

(9) State dedicated funds.

Sec. 5. As used in this chapter, "GDP deflator" refers to the United States Department of Commerce, Bureau of Economic Analysis, Price Indexes for Gross Domestic Product, National Income and Product Accounts Table 1.1.4 or its successor index or table.

Sec. 6. As used in this chapter, "inflation" means, with respect to any fiscal year, the lesser of:

(1) the percentage change between:

(A) the quotient of:

(i) the sum of the GDP deflator for the four (4) calendar quarters ending on March 31 of the calendar year before the adoption of the state biennial budget; divided by

(ii) four (4); and

(B) the quotient of:

(i) the sum of the GDP deflator for the four (4) calendar quarters ending on March 31 of the calendar year before the calendar year described in clause (A); divided by

(ii) four (4); or

(2) six percent (6%).

Sec. 7. As used in this chapter, "maximum annual percentage change in fiscal year spending" means the sum of the following:

(1) Inflation with respect to the fiscal year in question, as calculated under section 6 of this chapter.

(2) The annual percentage rate of change in population.

Sec. 8. As used in this chapter, "population" means:

(1) the number of residents of the state as estimated by the United States Bureau of the Census each year; or

(2) the number of residents of the state as counted by the United States Bureau of the Census in a decennial census.

Sec. 9. As used in this chapter, "state fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

Sec. 10. Before July 1, 2007, and before July 1 of each even-numbered year thereafter, the department of state revenue shall:

(1) certify to the governor and the legislative council:

(A) the inflation amount calculated under section 6 of this chapter; and

(B) the annual percentage rate of change in population as reported in the most recent population estimate report of the United States Bureau of Census; and

(2) provide the information certified under subdivision (1) to the general public.

Sec. 11. (a) This subsection applies to state fiscal years beginning July 1, 2007, and beginning July 1 in each odd-numbered year thereafter. The state may not increase fiscal year spending more than the maximum annual percentage change in fiscal year spending applicable to that state fiscal year.

(b) This subsection applies to state fiscal years beginning July 1, 2008, and beginning July 1 in each even-numbered year thereafter. State fiscal year spending may not exceed the amount determined under the following STEPS:

STEP ONE: Determine the amount of state fiscal year spending permitted under subsection (a) for the previous state fiscal year.

STEP TWO: Multiply the STEP ONE amount by the maximum annual percentage change in fiscal year spending applicable to the previous state fiscal year.

STEP THREE: Add the STEP TWO amount to the STEP ONE amount.

(c) If the general assembly considers it necessary to spend more money than permitted by the spending limit imposed by this chapter, the general assembly may do so if the general assembly adopts a concurrent resolution approved by at least two-thirds (2/3) of the members of both houses of the general assembly. The resolution must:

(1) state that the general assembly desires to budget and

spend more money than permitted by this chapter; and

(2) set forth the reasons necessitating the excess spending.

If a resolution authorizing spending in excess of the limit imposed by this chapter is adopted under this subsection, an action may not be initiated under section 14 of this chapter concerning excess spending if the excess spending results from the adoption of the resolution and the reasons for the excess spending are set forth in the resolution.

Sec. 12. If revenue from sources not excluded from fiscal year spending for a state fiscal year exceeds the spending limit imposed under this chapter for that state fiscal year, the excess must be deposited into the property tax elimination fund established by section 13 of this chapter.

Sec. 13. (a) The property tax elimination fund is established to provide funding for any distribution or expenditure that was previously funded in whole or in part by property tax revenue. The fund shall be administered by the treasurer of state.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 14. (a) This chapter may be enforced in a private individual civil action or a class action suit. A plaintiff that prevails in an action initiated under this section is entitled to costs and reasonable attorney's fees. The state may recover costs and reasonable attorney's fees in an action initiated under this section only if the action is ruled frivolous.

(b) Revenue that is determined in an action initiated under this section to have been collected illegally, kept illegally, or spent illegally during the four (4) state fiscal years preceding the date on which a suit is filed under this section shall be deposited in the property tax elimination fund established by section 13 of this chapter.

SECTION 2. IC 4-10-21-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. The limits on state expenditures set forth in this chapter are in addition to the limits set forth in IC 4-10-20. Nothing in this chapter may be construed to allow state**

expenditures to exceed the limits set forth in IC 4-10-20.

SECTION 3. [EFFECTIVE UPON PASSAGE] **Notwithstanding any other law, including any law enacted during the 2007 regular session of the Indiana general assembly, no money may be distributed from the property tax elimination fund established by IC 4-10-20 until after the date on which taxing units (as defined in IC 6-1.1-1-21) are prohibited from imposing ad valorem property taxes.**

SECTION 4. **An emergency is declared for this act.**